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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,221	02/27/2002	William G. Fish	20501.213RIS	6447

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IP PATENTS  
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EXAMINER
PHAM, MINH CHAU THI

ART UNIT	PAPER NUMBER
1724	5

DATE MAILED: 11/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <u>10/086,221</u>	Applicant(s) <u>RISH ET AL</u>
Examiner <u>PHAM</u>	Group Art Unit <u>1724</u>	

*(B)*  
— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

Re-andit A  
Responsive to communication(s) filed on 02/27/02

- This action is FINAL.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 1 1; 453 O.G. 213.

**Disposition of Claims**

- Claim(s) 1-42 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- Claim(s) \_\_\_\_\_ is/are allowed.
- Claim(s) 1-42 is/are rejected.
- Claim(s) \_\_\_\_\_ is/are objected to.
- Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

**Application Papers**

- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119 (a)-(d)**

- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- All  Some\*  None of the:
  - Certified copies of the priority documents have been received.
  - Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - Copies of the certified copies of the priority documents have been received  
in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

**Attachment(s)**

- Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  Interview Summary, PTO-413
- Notice of Reference(s) Cited, PTO-892  Notice of Informal Patent Application, PTO-152
- Notice of Draftsperson's Patent Drawing Review, PTO-948  Other \_\_\_\_\_

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***Reissue Applications***

1. The original patent, or a statement as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.
2. Applicant is reminded that all subject matter being added to the original patent must be underlined in their entirely. Claims 15-42 are newly added to the reissue application and they all must be underlined. 37 CFR 1.173(d).
3. The changes made by certificate of correction in the patent file have not been entered in the reissue application per MPEP 1411.01. Applicant is advised that any changes made by Certificate of Correction in the patent file should be included in the reissue without underlining and bracketing.
4. Claims 1-42 are rejected under 35 U.S.C. 251 as being improperly broadened in a reissue application made and sworn to by the assignee and not the patentee. A claim is broader in scope than the original claims if it contains within its scope any conceivable product or process which would have infringed the original patent. A claim is broadened if it is broader in any one respect even though it may be narrower in other respects.

The claims are broadened in the reissue application, the assignee cannot provide the reissue declaration. The reissue declaration must be signed by all of the inventors. As the newly added claims to a vacuum bag are broader than the patented claims to the vacuum assembly, this reissue application is a broadening reissue.

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5. Claims 35-40 and 42 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See *Hester Industries, Inc. v. Stein, Inc.*, 142 F.3d 1472, 46 USPQ2d 1641 (Fed. Cir. 1998); *In re Clement*, 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir. 1997); *Ball Corp. v. United States*, 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984). A broadening aspect is present in the reissue which was not present in the application for patent. The record of the application for the patent shows that the broadening aspect (in the reissue) relates to subject matter that applicant previously surrendered during the prosecution of the application. Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application.

The amendment of August 19, 1999 in the patent file, claim 16 was amended to recite the inclusion of a “nozzle”, however the “nozzle” is not recited in claim 35 of the reissue application. The limitation omitted in the reissue was added in the original application claims for the purpose of making the claims allowable over a rejection or objection made in the application. Even though Applicant made no argument on the record that the limitation was added to obviate the rejection, the nature of the addition to the claim can show that the limitation was added in direct reply to the rejection. This too will establish the omitted limitation as relating to subject matter previously surrendered. See MPEP 1412.02.

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***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 15-17, 20, 24, 25, 28 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by any one of Johansson (3,933,451; 2 in Fig. 3; 3 in Fig. 4), Crener (4,274,847; 10 & 11 in Figs. 1 & 2; col. 1, lines 57-62), Kuplas (4,539,026; M & 32 in Fig. 2; col. 3, lines 5-13) and Marafante et al (5,230,724; Figs. 1 & 2).

Any one of Johansson, Crener, Kuplas and Marafante et al teach a vacuum cleaner bag comprising an air-permeable bag having an opening, a collar attached to the bag surrounding the opening, the collar having an end edge, a first side edge, a second side edge opposing the first side edge and an orientation surface (see all of the drawings) wherein the first and second side edges are in generally vertical orientation during use, the end edge is in a generally horizontal orientation during use, the first and second side edges are free from the bag, the orientation surface comprising an angled surface extending from the first side edge to the end edge or a chamfered corner of the collar. The collar further includes a second orientation surface extending from the second side edge to the end edge and an elastic seal surrounding the bag opening.

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***Allowable Subject Matter***

8. Claims 18, 19, 21-23, 26, 27 and 29-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter:  
None of the prior arts discloses the collar with a retainer opening, with a recess adjacent the end edge, with a sliding panel that slides between an open position and a closed position over the bag opening including a positive stop limiting the movement of the sliding panel.

10. Claims 1-14 and 41 would be allowable if rewritten or amended to overcome the rejection under 35 U. S. C. 251.

11. The following is a statement of reasons for the indication of allowable subject matter:  
None of the prior arts discloses a vacuum assembly comprising a bag vacuum cleaner bag docking assembly mounted adjacent the dirty air outlet nozzle comprising an anchor member having a central opening for closely releasably receiving the dirty air outlet nozzle, and a mounting member pivotally connected to the anchor member and movable between a loading position in which the vacuum bag is inserted into or removed from the mounting member and a working position in which an opening in the vacuum bag engages the dirty air outlet nozzle.

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***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

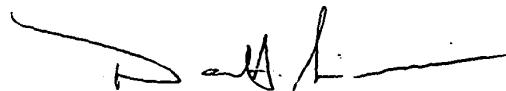
- Bowers (4,262,384) discloses a vacuum bag assembly.
- Embree et al (6,379,408 B1) disclose a mounting and closure structure for a vacuum cleaner bag.
- Paterson et al (6,406,507 B1) disclose an apparatus for supporting and shielding flexible outer bags of vacuum cleaners.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau Pham whose telephone number is (703) 308-1605. The examiner can normally be reached on Monday-Friday (except Wednesday) from 7:15 a.m. to 5:45 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached on (703) 308-1972. The fax phone number for this Group is (703) 872-9310 (non-finals) or (703) 872-9311 (after-finals).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.



David L. Chinnici  
Supervisory Patent Examiner  
Technology Center 1700



Minh-Chau Pham

**Patent Examiner**

October 22, 2002